

**PETITION UNDER 28 U.S.C. § 2254  
BY A PERSON IN CUSTODY  
PURSUANT TO A STATE COURT JUDGMENT**

<b>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF FLORIDA</b>	<b>Division:</b>	
<b>Name of Petitioner</b> <i>(under which you were convicted)</i>	<b>Case No.:</b> _____ <i>(to be assigned by the Clerk's Office)</i>	
<b>Prisoner ID #</b>	<b>Place of Current Confinement and Address</b>	
<b>NAME OF PETITIONER</b> <i>(include aliases)</i>	<b>v.</b>	<b>NAME OF RESPONDENT</b> <i>(authorized person having custody of petitioner)</i>
_____	<b>v.</b>	_____
<b>THE ATTORNEY GENERAL OF THE STATE OF</b> _____ <i>(State in which challenged judgment was entered)</i>		

**I. PROCEDURAL HISTORY**

A. Name and location *(circuit and county)* of the court that entered the judgment of conviction or sentence under attack: \_\_\_\_\_

\_\_\_\_\_ Case Number *(if known)*: \_\_\_\_\_

B. Date of Judgment (*conviction/sentence*): \_\_\_\_\_

C. Date of Sentence: \_\_\_\_\_

D. Sentence Imposed: \_\_\_\_\_

\_\_\_\_\_

E. Identify all crimes of which you were convicted and sentenced in this case (*all counts*): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

F. What was your plea? (*Check one*)

Guilty       Not Guilty       Nolo contendere

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

G. If you pleaded not guilty, what kind of trial did you have? (*Check one*)

Jury     Judge only (*Bench Trial*)

H. Did you testify at a pretrial hearing, trial, or post-trial hearing?

YES     NO

I. Did you appeal from the judgment of conviction?

YES     NO

*(If you did not appeal, skip to Question K.)*

J. If you did appeal, answer the following:

1. Name of Court: \_\_\_\_\_

2. Date Filed: \_\_\_\_\_

3. Case Number *(if known)*: \_\_\_\_\_

4. Date of Result: \_\_\_\_\_

5. Citation to Case *(if known)*: \_\_\_\_\_

6. Result: \_\_\_\_\_

7. Grounds Raised on Appeal: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Did you file a petition for rehearing?       YES     NO

If yes, state the result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

9. Did you seek review in the Florida Supreme Court?       YES     NO

If yes, state the result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

Citation to Case *(if known)*: \_\_\_\_\_

10. Did you file a petition for certiorari in the U. S. Supreme Court?

YES  NO

If yes, state the result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

Citation to Case (*if known*): \_\_\_\_\_

K. Other than the direct appeals listed above, have you filed any other petitions, applications, or motions challenging judgment of conviction in any state court?  YES  NO

*(If your answer is NO, skip to Question P.)*

L. If your answer to Question K is YES, answer the following:

1. Name of Court: \_\_\_\_\_

2. Identify what you filed (*for example, a Rule 3.850 motion, habeas petition, etc.*): \_\_\_\_\_

3. Case Number (*if known*): \_\_\_\_\_ Date Filed: \_\_\_\_\_

4. Grounds Raised: \_\_\_\_\_

5. Was an evidentiary hearing held on your petition or motion?

YES  NO

6. Result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

M. If you filed a second petition, application, or motion, answer the following:

*(If you did not file additional petitions, applications, or motions, skip to Question O.)*

1. Name of Court: \_\_\_\_\_

2. Identify what you filed *(for example, a Rule 3.850 motion, habeas petition, etc.)*: \_\_\_\_\_  
\_\_\_\_\_

3. Case Number *(if known)*: \_\_\_\_\_ Date Filed: \_\_\_\_\_

4. Grounds Raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Was an evidentiary hearing held on your petition or motion?

YES  NO

6. Result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

N. If you filed a third petition, application, or motion, answer the following:

*(If you did not file additional petitions, applications, or motions, skip to Question O.)*

1. Name of Court: \_\_\_\_\_

2. Identify what you filed *(for example, a Rule 3.850 motion, habeas petition, etc.)*: \_\_\_\_\_  
\_\_\_\_\_

3. Case Number *(if known)*: \_\_\_\_\_ Date Filed: \_\_\_\_\_

4. Grounds Raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Was an evidentiary hearing held on your petition or motion?

YES    NO

6. Result: \_\_\_\_\_

\_\_\_\_\_ Date of Result: \_\_\_\_\_

*(If you filed more than three petitions, applications, or motions, attach additional pages as necessary to provide answers to all questions listed in Question N.)*

O. Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

1. First Petition:     YES  NO

2. Second Petition:  YES  NO

3. Third Petition:     YES  NO

a. If you did *not* appeal the result, explain briefly why you did not:

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b. If you did file an appeal, what was the result: \_\_\_\_\_

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c. Date of the opinion/mandate (*include case citation, if known*): \_\_\_\_\_

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P. Have you previously filed a § 2254 petition or other pleading regarding the validity of your state conviction or sentence in any federal court?

YES       NO

*(If yes, identify below the court, case number, and, result, including the result of any appeal.)*

Name of Court: \_\_\_\_\_ Case #: \_\_\_\_\_

Result: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appeal?  YES  NO Result: \_\_\_\_\_

\_\_\_\_\_

## II. GROUNDS RAISED IN CURRENT § 2254 PETITION

***ATTENTION: To proceed in federal court, you must ordinarily first exhaust all available state court remedies on each ground raised in this petition. Also, if you do not set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.***

For this petition, state ***all*** grounds on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. You must provide a summary of ***specific facts*** in support of each ground raised. Do not argue or cite case law. A supporting memorandum of law, not exceeding 10 pages, may be attached to this petition presenting legal argument, but all supporting facts ***must*** be set forth in this petition. (*Attach additional pages as needed if you are raising more than four grounds.*)

**A. Ground One:** \_\_\_\_\_

1. Supporting Facts (*brief statement without citing cases or law*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Did you raise this claim in state court by direct appeal?

YES  NO

If you did *not* raise this claim, explain why: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Did you raise this claim in a Rule 3.850 motion or otherwise?

YES  NO

If yes, explain how it was raised (*type of petition*): \_\_\_\_\_

\_\_\_\_\_

a. Name and location of the court where the motion or petition was filed:

\_\_\_\_\_

b. Case # (*if known*): \_\_\_\_\_

c. Date of Decision: \_\_\_\_\_

d. Result: \_\_\_\_\_

\_\_\_\_\_

4. Did you receive a hearing on your motion or petition?

YES  NO

5. Did you appeal from the denial of your motion or petition?

YES  NO

6. Was Ground One raised in your appeal?

YES  NO

a. If not raised in your appeal, why not? \_\_\_\_\_

\_\_\_\_\_

b. Identify the name and location of the court where appeal was filed:

\_\_\_\_\_

\_\_\_\_\_

c. Case # (*if known*): \_\_\_\_\_

d. Date of Decision: \_\_\_\_\_

e. Result: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Identify any other way in which you exhausted state remedies for Ground

One: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**B. Ground Two:** \_\_\_\_\_

1. Supporting Facts (*brief statement without citing cases or law*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Did you raise this claim in state court by direct appeal?

YES    NO

If you did *not* raise this claim, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Did you raise this claim in a Rule 3.850 motion or otherwise?

YES    NO

If yes, explain how it was raised (*type of petition*): \_\_\_\_\_

\_\_\_\_\_

a. Name and location of the court where the motion or petition was filed:

\_\_\_\_\_

b. Case # (*if known*): \_\_\_\_\_

c. Date of Decision: \_\_\_\_\_

d. Result: \_\_\_\_\_

\_\_\_\_\_

4. Did you receive a hearing on your motion or petition?

YES  NO

5. Did you appeal from the denial of your motion or petition?

YES  NO

6. Was Ground Two raised in your appeal?

YES  NO

a. If not raised in your appeal, why not? \_\_\_\_\_

\_\_\_\_\_

b. Identify the name and location of the court where appeal was filed:

\_\_\_\_\_

\_\_\_\_\_

c. Case # (*if known*): \_\_\_\_\_

d. Date of Decision: \_\_\_\_\_

e. Result: \_\_\_\_\_

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7. Identify any other way in which you exhausted state remedies for Ground

Two: \_\_\_\_\_  
\_\_\_\_\_

**C. Ground Three:** \_\_\_\_\_

1. Supporting facts (*brief statement without citing cases or law*): \_\_\_\_\_

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2. Did you raise this claim in state court by direct appeal?

YES    NO

If you did *not* raise this claim, explain why: \_\_\_\_\_

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3. Did you raise this claim in a Rule 3.850 motion or otherwise?

YES    NO

If yes, explain how it was raised (*type of petition*): \_\_\_\_\_

a. Name and location of the court where the motion or petition was filed:

\_\_\_\_\_

b. Case # (*if known*): \_\_\_\_\_

c. Date of Decision: \_\_\_\_\_

d. Result: \_\_\_\_\_

\_\_\_\_\_

4. Did you receive a hearing on your motion or petition?

YES  NO

5. Did you appeal from the denial of your motion or petition?

YES  NO

6. Was Ground Three raised in your appeal?

YES  NO

a. If not raised in your appeal, why not? \_\_\_\_\_

\_\_\_\_\_

b. Identify the name and location of the court where appeal was filed:

\_\_\_\_\_

\_\_\_\_\_

c. Case # (*if known*): \_\_\_\_\_

d. Date of Decision: \_\_\_\_\_

e. Result: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. Identify any other way in which you exhausted state remedies for Ground

Three: \_\_\_\_\_

\_\_\_\_\_

**D. Ground Four:** \_\_\_\_\_

\_\_\_\_\_

1. Supporting Facts (*brief statement without citing cases or law*): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Did you raise this claim in state court by direct appeal?

YES    NO

If you did *not* raise this claim, explain why: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Did you raise this claim in a Rule 3.850 motion or otherwise?

YES  NO

If yes, explain how it was raised (*type of petition*): \_\_\_\_\_

\_\_\_\_\_

a. Name and location of the court where the motion or petition was filed:

\_\_\_\_\_

b. Case # (*if known*): \_\_\_\_\_

c. Date of Decision: \_\_\_\_\_

d. Result: \_\_\_\_\_

\_\_\_\_\_

4. Did you receive a hearing on your motion or petition?

YES  NO

5. Did you appeal from the denial of your motion or petition?

YES  NO

6. Was Ground Four raised in your appeal?

YES  NO

a. If not raised in your appeal, why not? \_\_\_\_\_

\_\_\_\_\_

b. Identify the name and location of the court where appeal was filed:

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c. Case # (if known): \_\_\_\_\_

d. Date of Decision: \_\_\_\_\_

e. Result: \_\_\_\_\_

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7. Identify any other way in which you exhausted state remedies for Ground Four: \_\_\_\_\_

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*(Set forth additional grounds, if any, on separate sheets of paper.)*

**E. Grounds Not Previously Raised**

Is there any ground raised in this petition that has not already been presented in either state or federal court?

YES    NO

If so, state the reason(s): \_\_\_\_\_

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## **F. Pending Proceedings**

Do you have any petition or appeal currently pending (filed, but not yet decided) in *any* court (state or federal) for the judgment being challenged in this petition:

YES    NO

Please explain: \_\_\_\_\_

\_\_\_\_\_

## **G. Future Sentence**

Do you have any future sentence to serve (*as in a consecutive sentence imposed*) after you complete the sentence for the judgment challenged in this petition?

YES    NO

1. If so, identify the other sentence: \_\_\_\_\_

2. Name and location of the court that imposed that sentence: \_\_\_\_\_

\_\_\_\_\_

3. Date Sentence was Imposed: \_\_\_\_\_

4. Case Number: \_\_\_\_\_

## **H. Timeliness of Petition**

If your judgment of conviction became final over one year ago, explain why the one-year statute of limitations as stated in 28 U.S.C. § 2244(d)<sup>i</sup> does not

bar this petition: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. RELIEF SOUGHT IN CURRENT § 2254 PETITION**

Petitioner requests the Court grant this § 2254 petition and provide the following relief: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ or any other relief to which Petitioner is entitled.

Signature of Attorney (*if any*): \_\_\_\_\_

**I certify and declare, under penalty of perjury, that the foregoing is true and correct and that this petition was (*check one*)  delivered to prison officials for mailing or  deposited in the prison’s mail system for mailing**

on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Date: \_\_\_\_\_ Petitioner's Signature: \_\_\_\_\_

*(If the person signing above is not the petitioner, state relationship to the petitioner and explain why the petitioner is not signing this petition below.)*

\_\_\_\_\_  
\_\_\_\_\_

Printed Name of Petitioner: \_\_\_\_\_

Prisoner ID #: \_\_\_\_\_

Correctional Institution: \_\_\_\_\_

Address: \_\_\_\_\_

*(You must timely notify the Clerk's Office if there is any change to your mailing address.)*

\_\_\_\_\_  
(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of-

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court

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and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2244(d).